

DEPARTMENT OF THE ARMY

EASEMENT FOR DRIVEWAY

LOCATED ON

ARKABUTLA LAKE

DeSOTO COUNTY, MISSISSIPPI

1/06/11 3:16:21
DK W BK 650 PG 109
DESOTO COUNTY, MS
W.E. DAVIS, CH CLERK

THE SECRETARY OF THE ARMY, under and by virtue of the authority vested in the Secretary by Title 10, United States Code, Section 2668, having found that the granting of this easement is not incompatible with the public interest, hereby grants to **Douglas K. Gustafson and Kathy M. Gustafson**, hereinafter referred to as the grantee, an easement for the operation and maintenance of a driveway located at Arkabutla Lake, hereinafter referred to as the facilities, over, across, in and upon lands of the United States known as a part of Tract No. 21 located in Section 36, Township 3 South, Range 9 West, DeSoto County, Mississippi, approximately 14' x 367.50' containing 0.11 acres, more or less, as identified on **Exhibit "A"**, hereinafter referred to as the premises, and which is attached hereto and made a part hereof. *located in the NW 1/4.*

THIS EASEMENT is granted subject to the following conditions.

1. TERM

This easement is hereby granted for a term of twenty-five (25) years, beginning 1 January 2011 and ending 31 December 2035.

2. CONSIDERATION

The grantee shall pay to the United States the amount of **One Thousand dollars and no/100's (\$1,000.00)**, in full for the term hereof to the order of "FAO, USAED" and delivered to USACE, Vicksburg District, Attention: CEMVK-RE-SM, 4155 Clay Street, Vicksburg, Mississippi 39183-3435.

*Kathy Gustafson
P.O. Box 827
Hernando, MS. 38632*

Enclosure 1

CONTRACT NO. DACW38-2-11-20

3. NOTICES

All correspondence and notices to be given pursuant to this easement shall be addressed, if to the grantee, to **Mr. and Mrs. Douglas K. Gustafson, 5160 Pleasant Hill Drive, Hernando, Mississippi, 38632**, and, if to the United States, to the **District Engineer, Attention: Chief, Real Estate Division, 4155 Clay Street, Vicksburg, Mississippi 39183-3435**, or as may from time to time otherwise be directed by the parties. Notice shall be deemed to have been duly given if and when enclosed in a properly sealed envelope or wrapper addressed as aforesaid, and deposited, postage prepaid, in a post office regularly maintained by the United States Postal Service.

4. AUTHORIZED REPRESENTATIVES

Except as otherwise specifically provided, any reference herein to "Secretary", "District Engineer", "Installation Commander", or "said officer" shall include their duly authorized representatives. Any reference to "grantee" shall include assignees, transferees and their duly authorized representatives.

5. SUPERVISION BY THE DISTRICT ENGINEER

The construction, operation, maintenance, repair or replacement of said facilities, including culverts and other drainage facilities, shall be performed at no cost or expense to the United States and subject to the approval of the District Engineer, Vicksburg District, hereinafter referred to as said officer. Upon the completion of any of the above activities, the grantee shall immediately restore the premises to the satisfaction of said officer. The use and occupation of the premises for the purposes herein granted shall be subject to such rules and regulations as said officer prescribes in writing from time to time.

6. APPLICABLE LAWS AND REGULATIONS

The grantee shall comply with all applicable Federal, state, county and municipal laws, ordinances and regulations wherein the premises are located.

CONTRACT NO. DACW38-2-11-20**7. CONDITION OF PREMISES**

The grantee acknowledges that it has inspected the premises, knows the condition, and understands that the same is granted without any representation or warranties whatsoever and without any obligation on the part of the United States.

8. INSPECTION AND REPAIRS

The grantee shall inspect the facilities at reasonable intervals and immediately repair any defects found by such inspection or when required by said officer to repair any such defects.

9. PROTECTION OF GOVERNMENT PROPERTY

The grantee shall be responsible for any damage that may be caused to the property of the United States by the activities of the grantee under this easement, and shall exercise due diligence in the protection of all property located on the premises against fire or damage from any and all causes. Any property of the United States damaged or destroyed by the grantee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the grantee to a condition satisfactory to said officer, or at the election of said officer, reimbursement made therefore by the grantee in an amount necessary to restore or replace the property to a condition satisfactory to said officer.

10. RIGHT TO ENTER

The right is reserved to the United States, its officers, agents, and employees to enter upon the premises at any time and for any purpose necessary or convenient in connection with government purposes, to make inspections, to remove timber or other material, except property of the grantee, to flood the premises and/or to make any other use of the lands as may be necessary in connection with government purposes, and the grantee shall have no claim for damages on account thereof against the United States or any officer, agent, or employee thereof.

CONTRACT NO. DACW38-2-11-20**11. RIGHT TO CONNECT**

The United States reserves the right to make such connections between the road or street herein authorized and roads and streets on other government lands as said officer may from time consider necessary, and also reserves to itself rights-of-way for all purposes across, over or under the right-of-way hereby granted; provided that such rights shall be used in a manner that will not create unnecessary interference with the use and enjoyment by the grantee of the right-of-way herein granted.

12. OTHER AGENCY AGREEMENTS

It is understood that the provisions of the conditions on **SUPERVISION BY THE DISTRICT ENGINEER** and **RIGHT TO ENTER** above shall not abrogate or interfere with any agreements or commitments made or entered into between the grantee and any other agency of the United States with regard to financial aid to the grantee in connection with the construction, maintenance, or repair of the facilities herein authorized.

13. TERMINATION

This easement may be terminated by the Secretary upon 30 days written notice to the grantee if the Secretary shall determine that the right-of-way hereby granted interferes with the use or disposal of said land by the United States, or it may be revoked by the Secretary for failure of the grantee to comply with any or all of the conditions of this easement, or for non-use for a period of two (2) years, or for abandonment.

14. SOIL AND WATER CONSERVATION

The grantee shall maintain, in a manner satisfactory to said officer, all soil and water conservation structures that may be in existence upon said premises at the beginning of or that may be constructed by the grantee during the term of this easement, and the grantee shall take appropriate measures to prevent or control soil erosion within the right-of-way herein granted. Any soil erosion occurring outside the premises resulting from the activities of the grantee shall be corrected by the grantee as directed by said officer.

CONTRACT NO. DACW38-2-11-20

15. ENVIRONMENTAL PROTECTION

a. Within the limits of their respective legal powers, the parties hereto shall protect the premises against pollution of its air, ground, and water. The grantee shall promptly comply with any laws, regulations, conditions or instructions affecting the activity hereby authorized if and when issued by the Environmental Protection Agency, or any Federal, state, interstate or local governmental agency having jurisdiction to abate or prevent pollution. The disposal of any toxic or hazardous materials within the premises is strictly prohibited. Such regulations, conditions, or instructions in effect or prescribed by the said Environmental Protection Agency or any Federal, state, interstate or local governmental agency are hereby made a condition of this easement. The grantee shall not discharge waste or effluent from the premises in such a manner that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.

b. The use of any pesticides or herbicides within the premises shall be in conformance with all applicable Federal, state and local laws and regulations. The grantee must obtain approval in writing from said officer before any pesticides or herbicides are applied to the premises.

c. The grantee will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs arising from the grantee's activities, the grantee shall be liable to restore the damaged resources.

16. ENVIRONMENTAL BASELINE STUDY

An Environmental Baseline Study (EBS) documenting the known history of the property with regard to the storage, release or disposal of hazardous substances thereon, is attached hereto and made a part hereof as **Exhibit "B"**. Upon expiration, revocation or termination of this easement, another EBS shall be prepared which will document the environmental condition of the property at that time. A comparison of the two studies will assist the said officer in determining any environmental restoration requirements. Any such requirements will be completed by the grantee in accordance with the condition on **RESTORATION**.

CONTRACT NO. DACW38-2-11-20**17. HISTORIC PRESERVATION**

The grantee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archeological, architectural or other cultural artifacts, relics, remains or objects of antiquity. In the event such items are discovered on the premises, the grantee shall immediately notify said officer and protect the site and material from further disturbance until said officer gives clearance to proceed.

18. NON-DISCRIMINATION

The grantee shall not discriminate against any person or persons because of race, color, age, sex, handicap, national origin, or religion in the conduct of operations on the premises.

19. RESTORATION

On or before the expiration or termination of this easement, the grantee shall, without expense to the United States, and within such time as said officer may indicate, restore the premises to the satisfaction of said officer. In the event the grantee shall fail to restore the premises, the United States shall have the option to take over said facilities without compensation, or perform the restoration at the expense of the grantee, and the grantee shall have no claim for damages against the United States or its officers or agents for such action.

20. DISCLAIMER

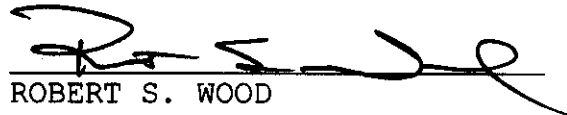
This instrument is effective only insofar as the rights of the United States in the property are concerned, and the grantee shall obtain such permission as may be required on account of any other existing rights. It is understood that the granting of this easement does not eliminate the necessity of obtaining any Department of the Army permit which may be required pursuant to the provisions of Section 10 of the Rivers and Harbors Act of 3 March 1899 (30 Stat. 1151; 33 U.S.C. § 403), Section 404 of the Clean Water Act (33 U.S.C. § 1344) or any other permit or license which may be required by Federal, state or local statute in connection with use of the premises.

CONTRACT NO. DACW38-2-11-20

THIS EASEMENT is not subject to Title 10, United States Code, Section 2662, as amended.

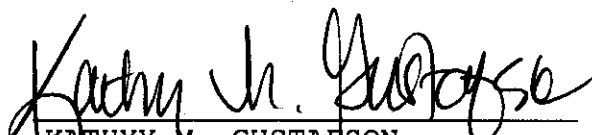
IN WITNESS WHEREOF, I have hereunto set my hand by authority of the Secretary of the Army, this 20th day of January, 20 11.

SECRETARY OF THE ARMY


ROBERT S. WOOD
Chief, Real Estate Division

THIS EASEMENT is also executed by the grantee this 3rd day of January, 20 11.


DOUGLAS K. GUSTAFSON


KATHY M. GUSTAFSON

A C K N O W L E D G M E N T

DK W BK 650 PG 116

STATE OF MISSISSIPPI
COUNTY OF Desoto

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the jurisdiction aforesaid, the within named **DOUGLAS K. GUSTAFSON AND KATHY M. GUSTAFSON**, who acknowledged that they executed the above and foregoing instrument of writing on the date therein stated and for the purposes therein mentioned.

GIVEN UNDER MY HAND AND OFFICIAL SEAL, this 3rd day of January, 2011.

(SEAL)



Janice M. Hanks
NOTARY PUBLIC

My Commission Expires:

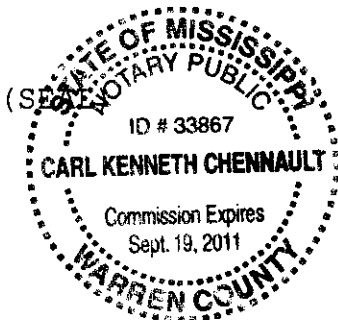
9-9-2013

A C K N O W L E D G M E N T

STATE OF MISSISSIPPI
COUNTY OF WARREN

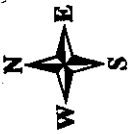
PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for said County and State, within my jurisdiction, the within named **ROBERT S. WOOD**, who acknowledged that he is the Chief of Real Estate Division, Vicksburg District, U. S. Army Corps of Engineers, and that in said capacity he executed the above and foregoing Department of the Army Easement for a Driveway by authority of the Secretary of the Army for the purposes therein expressed and as the act and deed of the United States of America.

GIVEN UNDER MY HAND AND SEAL, this 4th day of January, 2011.



Carl Kenneth Chennault
NOTARY PUBLIC

Arkabutla Lake
Driveway Easement
Section 36, Township 3 South,
Range 9 West, DeSoto County, Mississippi
DACW38-2-11-20 Exhibit "A"



Approximately 367.5' x 14' = 0.11 Acres of Driveway Consent
Located in Tract: 21 (0.11 Acres)

Scale: 1:1,000




ENVIRONMENTAL BASELINE STUDY

Project Title: Arkabutla Lake
DeSoto County, Mississippi
Douglas K. Gustafson and Kathy M. Gustafson
Easement No. DACW38-2-11-20

Anticipated Date of the Proposed Action: 1 January 2011

In accordance with regulations issued by the Environmental Protection Agency at 40 CFR 373, it has been determined that there is no evidence to indicate that hazardous substance activity has taken place on the subject property during the period of ownership by the United States.



ROBERT S. WOOD
Chief, Real Estate Division



Date

EXHIBIT "B"